

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Defendant.

JOSE SOTOMAYOR

No. CR 18-483 SI

APPLICATION FOR PERMISSION TO
ENTER PLEA OF GUILTY AND
ORDER ACCEPTING PLEA

(Fed. R. Crim. P., Rules 10 and 11)

The defendant represents to the Court:

1. My full true name is JOSE CAMILO SOTOMAYOR am _____ years of age.

I have gone to school up to and including 11th Grade. My most recent
occupation has been LANDSCAPING. I request that all proceedings
against me be in my true name.

2. I am represented by a lawyer. His/her name is

CHRIS CANNON.

3. I received and read a copy of the indictment/information. If applicable: An interpretator
who speaks _____ read it to me in _____, and I have discussed it with
my lawyer.

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1 I fully understand every charge made against me. I understand these charges to be as follows:

2 18 U.S.C. § 922(a)(1)(A)- Importing or Dealing in Firearms Without a License in Counts One and Two

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5 4. I have told my lawyer all the facts and circumstances known to me about the charges
6 made against me in the indictment/information. I believe that my lawyer is fully informed on all such
7 matters.

8 5. I know that the Court must be satisfied that there is a factual basis for a plea of
9 “GUILTY” before my plea can be accepted. I represent to the Court that I took the following actions in
10 connection with the charges made against me in Count[s] 1 and 2 and that these facts are true
11 and correct:

12 I helped sell guns on August 14th and September 11th 2018.

13
14
15 6. My lawyer has counseled and advised me on the nature of each charge, all lesser included
16 charges, all penalties and consequences of each charge, all possible defenses that I may have in this case
17 and constitutional rights I am waiving.

18 7. I understand that my constitutional rights are as follows:

- 19 (a) the right to plead not guilty or, having already so pleaded, to persist in that plea;
20 (b) the right to a jury trial;
21 (c) the right to represented by counsel – and if necessary have the Court appoint
22 counsel – at trial and at every other stage of the proceeding; and
23 (d) the right at trial to confront and cross-examine adverse witnesses, to testify and
24 present evidence, to compel the attendance of witnesses, to be protected from
25 compelled self-incrimination, and to remain silent, such that if I do not take the
witness stand, no inference of guilt may be drawn from such failure and the jury
must be so advised.

26 8. I know that I may plead “NOT GUILTY” to any offense charged against me and exercise
27 all of my rights as listed above.
28

9. I know that if I plead "GUILTY," I am giving up all of the trial rights enumerated in paragraph 7 and that there will be no trial either before a court or jury.

10. I know that if I plead "GUILTY," the result of my plea is more than just an admission or confession of guilt. I understand that it will result in my conviction, and the Court may impose the same punishment as if I had pleaded "NOT GUILTY," stood trial and been convicted by a jury.

11. My lawyer has informed me that the maximum and minimum, if any, punishments which the law provides for the offense charged in Count(s) 1 and 2 are as follows:

(For multiple counts, include the following information for each count)

(a) Maximum prison sentence: 10 years

(b) Mandatory minimum prison sentence (if applicable): _____ years

(c) Maximum supervised release term: 3 years

(d) Minimum supervised release term (if applicable): _____ years

(e) Mandatory special assessment: \$ _____

(f) Restitution: \$ _____ (or
(determined by the Court)

(g) Maximum fine equal to the greater of the following:

(1) \$ 250,000.00 (generally \$250,000 for a felony, \$100,000 for a Class A misdemeanor, or \$5,000 for a Class B misdemeanor or lower; see 18 U.S.C. § 3571)); or

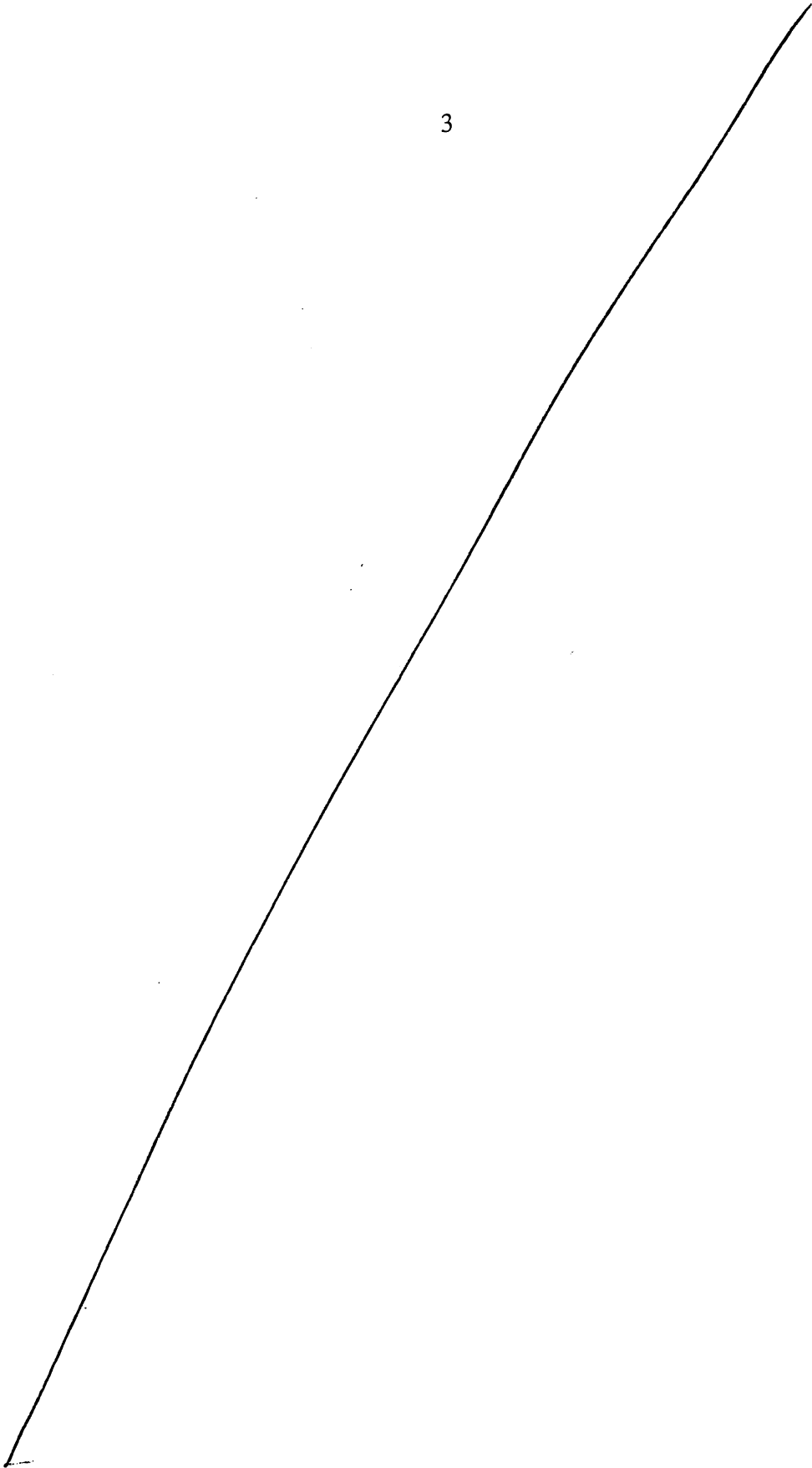
(2) \$ _____ (twice the gross pecuniary gain I derived from the offense); or

(3) \$ _____ (twice the gross pecuniary loss caused by the offense to another person or persons).

If applicable: I understand that, because I am pleading guilty to more than one count, the Court may order the sentences on those counts to run consecutively. Initial here _____

I understand that if I violate any condition of supervised release, the release may be revoked, and I may be sentenced to all or part of the term of supervised release imposed in addition to any other term of imprisonment which I have received. I understand that if I violate any term of probation, the

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1 probation may be revoked, and I may be sentenced up to the maximum statutory term of imprisonment
2 for the offense.

3 I understand that I may be assessed the costs of confinement and/or supervision. I understand I
4 may be ordered to pay restitution in an amount determined by the Court.

5 12. I know that the sentence I will receive will be decided solely by the Judge. I understand
6 that the Judge will make no decision regarding my sentence until the Judge has read and considered the
7 pre-sentence investigation report prepared and submitted to the Court by the Probation Department. I
8 also understand that the Court and counsel cannot promise me now what sentence will be imposed. I
9 understand that in deciding what sentence it will impose, the Court will calculate my sentencing range
10 under the Sentencing Guidelines. I understand that while the Court is not bound to apply the Guidelines,
11 it must take them into consideration when sentencing me, together with the factors set forth in 18 U.S.C.
12 § 3553(a).

13 13. I understand that under provisions of certain criminal statutes, certain property of mine
14 may be forfeited to the United States. I have been advised by my lawyer whether, and to what extent,
15 my property may be subject to forfeiture.

16 14. If I am on probation, supervised release or parole in this or any other Court, I know that
17 by pleading guilty here, my probation, release or parole may be revoked, and I may be required to serve
18 time in that case, which may be consecutive (that is, in addition to) any sentence imposed upon me in
19 this case.

20 15. I declare that no officer or agent of any branch of government (federal, state or local) has
21 promised or suggested that I will receive a lighter sentence, or probation, or any other form of leniency,
22 nor have any other promises been made if I plead "GUILTY" except as follows:

23 This is an open plea
24 _____
25 _____

26 (In the space above, insert any promises or concessions made to the defendant or to his/her
27 attorney).
28

1 If anyone else made such a promise or suggestion, except as noted in the previous sentence, I know that
 2 it was entirely without authority or effect.

3 16. I believe that my lawyer has done all that a lawyer could do to counsel and assist me, and
 4 I am satisfied with the advice and help he/she has given me.

5 17. I know that the Court will not permit anyone to plead "GUILTY" who maintains he/she
 6 is innocent and, with that in mind and because I am "GUILTY," I respectfully request the Court to
 7 accept my plea of "GUILTY" and to have the clerk enter my plea of "GUILTY" as follows:

8 Guilty to Counts One & Two

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 10
 11 18. My mind is clear. I am not under the influence of alcohol or drugs, and I am not under a
 12 doctor's care. The only drugs, medicines, or pills that I have taken within the past seven days are:

13
 14
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 16
 17 (If none, so state.)

18 19. I confirm that my decision to plead guilty is made voluntarily, and no one coerced or
 19 threatened me to enter into this Agreement. I offer my plea of "GUILTY" freely and voluntarily and of
 20 my own accord, and with full understanding of all the matters set forth in the indictment/information, in
 21 this application, and in the certificate of my lawyer which is attached to this application. In offering my
 22 plea of "GUILTY," I freely and voluntarily waive (that is, give up) the constitutional rights guaranteed to
 23 me as stated in paragraph 7 above.

24 20. I waive the reading of the indictment/information in open court, and I request the Court
 25 to enter my plea of "GUILTY" as set forth in Paragraph 17 of this application.


26 21. I understand that the Court will address me personally in open court to determine the
 27 voluntariness of my guilty plea and to establish a factual basis for it. I understand that the Court may
 28 place me under oath, and that the government may use any false statements that I make under oath

against me in a prosecution for perjury or false statement (which is a felony).

22. ☒ I am proficient enough in English to read the above and have read and fully understand it.

☐ I am not proficient enough in English. I speak and understand _____, which is my native language. The above was read to me in _____ and I fully understand it.

Signed by me in open court in the presence of my attorney this _____ day of _____, 20__.


AUSA Ross Weingarten

Defendant

CERTIFICATE OF COUNSEL

I have fully explained to my client the charges in the indictment/information in the case, the defenses he/she may have to the charges, all of the information set forth in this application, and all the rights that a criminal defendant has. In my opinion, my client understands the charges, the defenses, the information in this application, and the rights he or she is giving up by pleading guilty, and, based on the information now known to me, his/her decision to plead guilty is knowing and voluntary

Signed by me in open court in the presence of the above-named defendant after a full discussion of the contents of this certificate with the defendant this 17th day of May, 2019.


Attorney for the Defendant

INTERPRETER CERTIFICATION

I, _____, hereby certify that I am a certified _____ [language] interpreter and that I accurately translated this plea agreement to the defendant, he/she told me that he/she understood it, and I am satisfied that his/her answer is true and correct.

Date _____

Interpreter's Signature

ORDER

I find that:

1. The defendant enters this plea of guilty freely and voluntarily and not out of ignorance, inadvertence, fear or coercion.

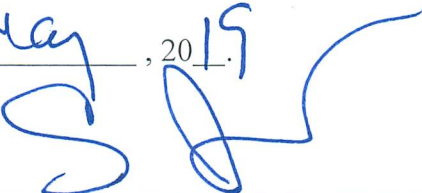
2. The defendant understands and knowingly, freely and voluntarily waives his/her constitutional rights.

3. The defendant freely and voluntarily executed the attached Application and fully understands its contents.

4. The defendant has admitted the essential elements of the crime charged.

IT IS THEREFORE ORDERED that the defendant's plea of "GUILTY" entered in open court be accepted and entered as requested in this Application and as recommended in the certificate signed by the defendant's lawyer.

Done in open court this 17th day of May, 2019.



United States District Judge
Northern District of California